

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C.

DA 94-720

In the Matter of )

Local Exchange Carriers' Rates,  
Terms, and Conditions for  
Expanded Interconnection for  
Special Access )

CC Docket No. 93-162 ✓

Petition for Extension of Time for  
Filing Supplemental Direct Case and  
Response to Order to Show Cause )

**ORDER**

Adopted: June 28, 1994; Released: June 29, 1994

By the Deputy Chief, Common Carrier Bureau:

1. On June 14, 1994, the United and Central Tier 1 Telephone Companies (United/Central) filed a petition for extension of time to file a supplemental direct case and answer to an Order to Show Cause in response to the Common Carrier Bureau's (Bureau) Supplemental Order<sup>1</sup> in the above-captioned docket. In that Order, the Bureau instructed United/Central, the Bell Atlantic Telephone Companies (Bell Atlantic), and Rochester Telephone Corporation (Rochester) to file supplemental direct cases on June 15, 1994 regarding their use of time and materials charges for central office construction for physical collocation.<sup>2</sup> The Bureau also directed United/Central to show cause why it had not complied with an earlier Bureau Order to delete references to individual case basis (ICB) rates in its physical collocation tariff.<sup>3</sup> On June 22, 1994, MFS Communications Company, Inc. (MFS) filed an opposition to United/Central's petition for extension of time.

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<sup>1</sup> See Local Exchange Carriers' Rates, Terms, and Conditions for Expanded Interconnection for Special Access, Supplemental Designation Order and Order to Show Cause, CC Docket No. 93-162, DA 94-556 (released May 31, 1994) (Supplemental Order). In that Order, the Bureau designated an additional issue in the CC Docket No. 93-162 investigation. See Local Exchange Carriers' Rates, Terms, and Conditions for Expanded Interconnection for Special Access, Order Designating Issues for Investigation, CC Docket No. 93-162, 8 FCC Rcd 6909 (Com.Car.Bur. 1993).

<sup>2</sup> See Supplemental Order at para. 20.

<sup>3</sup> Id. at para. 21. The Bureau stated that United/Central could combine into one document its answer to the Order to Show Cause and its supplemental direct case. Id. at para. 23.

2. United/Central requests an indefinite extension of time in which to file its pleadings in light of the recent decision by the United States Court of Appeals for the District of Columbia (D.C.) Circuit in Bell Atlantic v. FCC.<sup>4</sup> In its opinion, the D.C. Circuit vacated the Commission's requirement that local exchange carriers facilitate interconnection through the provision of physical collocation to competitive access providers and other interested parties.<sup>5</sup> According to United/Central, the Bureau's Supplemental Order is moot because it concerns issues relating to physical collocation.<sup>6</sup> United/Central seeks an extension of time until a court issues an order approving the Commission's authority to require physical collocation, or, in the absence of such an order, the Bureau "removes" the requirements of its Supplemental Order.<sup>7</sup> According to United/Central, an extension will save the companies and the Commission time and expense in preparation and review of material.<sup>8</sup>

3. MFS asserts that United/Central's extension petition was untimely because it was not filed at least seven days before the filing date of the supplemental direct case.<sup>9</sup> Moreover, MFS contends, even if the petition was timely, the Commission should not indefinitely delay review of United/Central's failure to comply with a Bureau Order.<sup>10</sup> Further, MFS maintains that despite Bell Atlantic v. FCC, United/Central's pleadings are highly relevant to the ongoing investigation of currently effective rates. According to MFS, grant of an indefinite extension of time will detract from the Commission's ability to judge the reasonableness of the charges that have already been paid by interconnectors.<sup>11</sup>

4. The Common Carrier Bureau has reviewed United/Central's request for extension of time and MFS's opposition. While we are mindful of the uncertainty in the

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<sup>4</sup> Expanded Interconnection with Local Telephone Company Facilities, CC Docket No. 91-141, Report and Order and Notice of Proposed Rulemaking, 7 FCC Rcd 7369 (1992); recon., 8 FCC Rcd 127 (1992); further modified on recon., 8 FCC Rcd 7341 (1993); other pets. for recon. pending; partially vacated and remanded for further proceedings sub nom., Bell Atlantic v. FCC, No. 92-1619 (D.C. Cir. June 10, 1994).

<sup>5</sup> Slip op. at 10-11. The Court also remanded virtual collocation rules to permit the Commission to consider whether and to what extent virtual collocation should be imposed. Id. at 11.

<sup>6</sup> United/Central Petition at 2.

<sup>7</sup> Id. at 2-3.

<sup>8</sup> Id. at 3.

<sup>9</sup> MFS Opposition at 2 (citing Section 1.46(b) of the Commission's Rules, 47 C.F.R. § 1.46(b)).

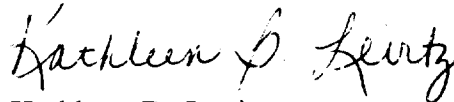
<sup>10</sup> Id. at 2-3. According to MFS, United/Central's pleadings may have a direct bearing on whether the Commission takes punitive action against United/Central. Id. at 3.

<sup>11</sup> Id.

interstate access marketplace in the wake of Bell Atlantic v. FCC, MFS correctly observes that the information requested by our Supplemental Order is relevant to the ongoing investigation of currently effective physical collocation tariffs. As MFS notes, this information will assist the Commission in judging the reasonableness of charges that interconnectors have paid and are currently paying pursuant to physical collocation tariffs. Accordingly, while we have determined that good cause has been shown to grant United/Central additional time, until July 15, 1994, to file its supplemental direct case and answer to our Order to Show Cause, we decline to grant United/Central's request for an indefinite extension of time. We will permit interested parties to file oppositions to United/Central's pleading no later than July 22, 1994.

5. Accordingly, IT IS ORDERED that United and Central Tier 1 Companies' petition for extension of time IS GRANTED TO THE EXTENT SET FORTH HEREIN, and otherwise IS DENIED.

**FEDERAL COMMUNICATIONS COMMISSION**



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Common Carrier Bureau